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EXAMINER

GOLDMAN, MICHAEL H

ART UNIT

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3688

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/632,557	Applicant(s) LU ET AL.	
	Examiner MICHAEL H. GOLDMAN	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office Action in response to communications received April 30, 2008. Claims 1 and 2 have been amended. Claims 14-20 have been added. Therefore, claim 1-20 are pending and addressed below.

Response to Amendment

2. The amendment to the title has been accepted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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4. Claims 1, 2, 4-7, 11 and 13-20 are rejected under 35 U.S.C. 103(a) as being anticipated by Kraft (20040098377) in view of Podgurny et al. (2004/0176997) and O’Ryan (20020111853).

Claim 1: Kraft discloses a system and method of real-time price comparisons searching for multi-variable information relating to prices by sellers of a selected product, where the multi-variable information includes at least two of the following: a stated price, a coupon or discount applicable to the selected product, a measure of quality for an available item of that selected product, a measure of reputation for a selected seller or manufacturer of that selected product, a shipping cost or type, a tax imposed on purchase of the selected product (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using **complex search criteria** , which examiner construes as **multi-variable information**; and examiner also construes complex as at least two of the above criteria; e.g. reputation for service and (see page 5 [0077] lines 3-4 reputation for service or unethical business practices; see page 2 [0017] line 9 better shipping terms, hence at least two criteria, including measure of quality and shipping cost or type, are explicitly stated, all other criteria are clearly implied by the **complex search criteria** method));

presenting a price in association with that selected product (see page 2 [0027] lines 6-7 whereby the nodes (defined as computer/server or gateway representing a merchant) that wish to respond return the request (by buyer using complex search

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criteria) with their offer, construed by examiner as presenting that effective price, and a URL to the product site).

However, Kraft does not specifically disclose *computing and presenting* an "effective" price in response to that multi-variable information.

Podgurney et al. discloses a system and a method using a search engine whereby pricing is *computed* by independent search of a database for pricing and a separate database for promotional events, construed by examiner as discounts (see [0166] lines 1-2 whereby the pricing engine computes a price for a service (i.e. transportation of goods in this embodiment) and independently searches for promotional events for which the parameters are a match to the discount eligibility criteria; see [0218] lines 3-5 where the computations of the price are effected at the merchant computing system and also whereby embodiments of the invention compute price at the customer computing unit).

Both Kraft and Podgurney et al. disclose a method of searching and computing discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the Kraft price search engine to include searching for applicable discounts, computing prices based on these discounts (computing an "effective" price), as taught by Podgurney, in order for the buyer to take advantage of these types of discounts.

However, the combination of Kraft and Podgurney et al. does not explicitly disclose searching for "*stated*" prices.

O’Ryan discloses an electronic commerce system whereby buyers are lead through a logical database of informational pages to the specific product or service for which they are looking (see abstract lines 10-12) and to provide supplies and services at stated prices (see [005] lines 6-7).

Both the combination of Kraft and Podgurny et al. and O’Ryan disclose a method and system of electronic commerce for connecting buyers and sellers of goods and services. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of Kraft and Podgurny et al. method to include searching for *stated prices* as taught by O’Ryan in order to meet the needs of the buyer in determining the ‘best price’.

However, they fail to disclose the feature of performance monitoring of the search engine (e.g. time involved in searching).

However, Examiner takes Official Notice that employing performance monitoring techniques are old and well known in the art. (e.g. see Oulu et al. (6792460) abstract, lines 1-2). Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to use these old and well known resources. One would have been motivated to do so in order to determine what modifications to make to the system for improved performance and concurrently provide performance reporting.

Claim 2: Kraft discloses a system and method of real-time price comparisons searching for multi-variable information relating to prices by sellers of a selected product including the steps of

searching for stated prices provided by sellers of a selected product (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using *complex search criteria*; also see [0027], lines 3-7 whereby system searches for the lowest available price and receiving offers from suppliers);

presenting that a price in association with that selected product (see page 2 [0027] lines 6-7 whereby the nodes (representations of sellers) return the request (for selected product) with their offer, construed by examiner as effective price;).

However, Kraft does not expressly disclose searching for discounts available from those sellers, which discounts are applicable to purchases of that selected product and does not expressly disclose applying those discounts to those stated prices, whereby an “effective” price can be computed & “stated” prices.

Podgurny et al. discloses a system and a method using a search engine whereby discounts are available from the sellers and whereby these discounts are applied to the prices and an “effective” price is derived (see [0166] lines 1-2 whereby the pricing engine computes a price for a service (i.e. transportation of goods in this embodiment) and independently searches for promotional events for which the parameters are a match to the discount eligibility criteria; see [0218] lines 3-5 where the computations of the price are effected at the merchant computing system and also whereby embodiments of the invention compute price at the customer computing unit).

Both Kraft and Podgurny et al. disclose a method of searching and computing discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the Kraft price search engine to include searching for applicable discounts, computing prices based on those discounts (computing an “effective price”), as taught by Podgurny, in order for the buyer to have more relevant information relating to purchase decisions.

However, the combination of Kraft and Podgurny et al. does not explicitly disclose searching for *stated prices*.

O’Ryan discloses an electronic commerce system whereby buyers are lead through a logical database of informational pages to the specific product or service for which they are looking (see abstract lines 10-12) and to provide supplies and services at stated prices (see [005] lines 6-7).

Both the combination of Kraft and Podgurny et al. and O’Ryan disclose a method and system of electronic commerce for connecting buyers and sellers of goods and services. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of Kraft and Podgurny et al. method to include searching for *stated prices* as taught by O’Ryan in order to meet the needs of the buyer in determining the ‘best price’.

However, they fail to disclose the feature of performance monitoring of the search engine (e.g. time involved in searching).

However, Examiner takes Official Notice that employing performance monitoring techniques are old and well known in the art. (e.g. see Oulu et al. (6792460) abstract,

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lines 1-2). Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to use these old and well known resources. One would have been motivated to do so in order to determine what modifications to make to the system for improved performance and concurrently provide performance reporting.

Claim 4: Kraft , Podgurny et al. and O’Ryan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature including steps of filtering information regarding sellers of offering the selected product in response to at least one restriction selected by a potential buyer (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using *complex search criteria*, which examiner construes as filtering information regarding sellers of offering the selected product in response to at least one restriction/criteria by a potential buyer).

Claim 5: Kraft , Podgurny et al. and O’Ryan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature including steps of obtaining at least some of that multi-variable information from a source other than a potential seller of that selected product (see page 5 [0077] lines 1-4 whereby the user at node B (seller B) may investigate the credibility of the merchant at node C (seller C) and find that the merchant at node C has a reputation for poor service or unethical business practices).

Claim 6: Kraft , Podgurny et al. and O’Ryan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature including steps of sorting information regarding sellers of offering the selected product in response to price (see FIG 3B whereby 350 returns query results to query engine 355 which sorts sellers offers against buyer criteria, 360).

Claim 7: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature wherein a search restriction is selected by a potential buyer, that search restriction including at least one of: a maximum effective price, a minimum measure of quality, a minimum measure of reputation, a minimum shipping type, a maximum amount of product ordered (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using *complex search criteria*, which examiner construes as search restrictions; and examiner also construes complex as at least one of the above criteria; e.g. reputation for service (see page 5 [0077] lines 3-4 reputation for service or unethical business practices; see page 2 [0022 line 2 shipping, etc. as criteria; hence at least two criteria are explicitly stated, all other criteria are clearly implied by the *complex search criteria* method)).

Claim 11: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature wherein discounts include at least one of: a reduction in shipping cost, an upgrade in shipping type without associated increase in price, and wherein those discounts are either unconditional or conditional o an

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amount of product ordered (see page 2 [0017] lines 8-9 whereby subsequent to the peer-to-peer network offers, the merchant responds to the buyer with a lower price or better shipping terms, examiner construes better shipping terms as an upgrade in shipping type without associated increase in price).

Claim 13: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature wherein the steps of searching also include information relating to products not exactly equal to the selected product (see page 2 [0017] lines 1-6 whereby if one or more search criteria are found by the node, the node updates the message (search criteria), resulting in a modified message forwarded to the next node or nodes in the network; examiner construes one or more criteria as searching for products meeting less than the full criteria as searching for information relating to products not exactly equal to the selected product).

However, they fail to disclose a ‘degree of match’ parameter.

However, examiner takes Official Notice that making recommendations with respect to ‘degrees of similarity between individual items’ is old and well known in the art. (e.g. see Linden et al. (6,266,649) abstract, lines 1-15, note Amazon.com as assignee). Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to use these old and well known resources. One would have been motivated to do so in order to provide more choices to consumers thereby increasing the transaction rate.

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Claim 14-19: Kraft , Podgurny et al. and O'Ryan disclose the invention as in claims 1 and 2 above. However, Kraft fails to disclose the features wherein connection parameters are measured and reported to users.

However, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to include connection parameters for measurement and reporting. One would have been motivated to do so in order to encourage customers/users to use the system more often via meaningful feedback on their searches.

Claim 20: Kraft , Podgurny et al. and O'Ryan disclose the invention as in claims 1 and 2 above. However, Kraft fails to disclose the feature wherein the information relating to products not exactly equal to the selected product is responsive to a degree-of-match parameter.

However, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to include a feature wherein the information relating to products not exactly equal to the selected product is responsive to a degree-of-match parameter.

One would have been motivated to do so in order to encourage customers/users to use the system more often via the increase number of selections available to satisfy their search criteria.

5. Claim 3 is rejected under 35 U.S.C. 103(a) being anticipated by Kraft (20040098377) in view of Podgurny et al. (2004/0176997) and further in view of O’Ryan (20020111853) as modified above, and further in view of HERZ et al. (20010014868).

Claim 3: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature whereby *aggregating and presenting* to buyer the aggregated information regarding sellers offering the selected product.

HERZ et al. discloses a system and a method using a search engine whereby offers with similar profiles are grouped together, examiner construes grouping as aggregating (see page 2, [0006], lines 1-2).

Kraft and Podgurny et al., and O’Ryan, and HERZ disclose a method of searching and offering discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the invention of Kraft to include grouping and presenting offers with similar profiles, as taught by HERZ, in order for the buyer to have more relevant information relating to purchase decisions.

6. Claim 8 and 9 are rejected under 35 U.S.C. 103(a) as being anticipated by Kraft (20040098377) in view of Podgurny et al. (2004/0176997) and O’Ryan (20020111853) as applied to Claims 1 and 2 above and further in view of Bailey (6785671).

Claim 8 and 9: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature searching *offline and for multi-variable information*.

Bailey discloses the feature of conducting searches for products/multi-variable information which may be embodied alone or in combination within a search engine of an online merchant, an internet search engine or another type of search system (see column 2, lines 24-29, whereby examiner construes another type of search system as including an offline feature, thereby solving the same problem).

Kraft and Podgurny et al., and O’Ryan, and Bailey disclose a method of searching multi-variable information. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the invention of Kraft to include the methods of ‘offline’ searching, as taught by Bailey, in order for the buyer to have more relevant information relating to purchase decisions.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft (20040098377) in view of Podgurny et al. (20040176997) and O’Ryan (20020111853) as applied to Claims 1 and 2 above and further in view of LOHSE (20030069785).

Claim 10: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature wherein discounts include at least *one of*: a fixed reduction in price, a percentage reduction in price, or *a reduction in price contingent on an amount of product ordered*.

LOHSE discloses a method for substantially instant electronic generation of volume discount coupons based on projected total dollar amounts consumers spend (see abstract lines 1-3 whereby examiner construes volume discount coupons as reduction in price contingent on an amount of product ordered).

Kraft and Podgurny et al. and O’Ryan, and LOHSE disclose a method for electronic commerce between buyers and sellers providing the lowest effective pricing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the search method of the combination of Kraft and Podgurny et al. and O’Ryan to include the volume discounts as taught by LOHSE in order to provide buyers with the lowest effective price.

8. Claim 12 is rejected under 35 U.S.C. 103(a), as applied to claims 1 and 2, as being unpatentable over Kraft (20040098377) in view of Podgurny et al. (20040176997) and O’Ryan (20020111853) as applied to Claims 1 and 2 above and further in view of Schierholt (20050149377).

Claim 12: Kraft, Podgurny et al. and O’Ryan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature whereby the steps of searching also include information relating to packages of products including the selected product; and the computed effective price is responsive to a minimum effective price for those packages of products.

Schierholt discloses the method whereby information relating to packages of products including the selected product and the computed effective price is responsive to a minimum effective price for those packages of products (see Page 2 [0015] whereby from an original customer product order, identifying at least one potential bundled product package containing more than the requested product order; also see [0016] whereby the special price may be a discount price that is determined according to a pricing and discount strategy; examiner construes special price as the computed effective price in response to buyer price request).

Kraft, Podgurny et al., O’Ryan and Schierholt disclose a method for electronic commerce between buyers and sellers providing the lowest effective pricing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the engine search method of the invention of Kraft, to include the bundled product package as taught by Schierholt in order to provide buyers with the lowest effective price.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 2, 8, 9 and 14- 19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues with respect to claims 1, 2, and 14-19 ‘...neither Kraft, Podgurny nor O’Ryan discloses or suggests ...connection parameters so as to reduce search time’. Examiner respectfully disagrees, as noted above the use of ‘performance monitoring’ approaches has been used for decades to evaluate systems and networks

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subsequently resulting in improvements in system performance as well as providing reporting features according to system designer preferences.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oulu et al. (6,792,460) disclose a system and method for monitoring application server performance.

Linden et al. (6,266,649) discloses collaborative recommendations using item-to-item similarity mappings.

Bailey et al. (6,785,671) discloses a system and method for locating web-based product offerings.

Jacobi et al. (7,113,917) discloses personalized recommendations of items represented within a database.

Mitchell (6,701,350) discloses a system and method for web page filtering.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL H. GOLDMAN whose telephone number is (571)270-5101. The examiner can normally be reached on Monday thru Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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mhg
July 22, 2008

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688